

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARK WAYNE CARTER,
TDCJ #1127307,

Plaintiff,

v.

STATE OF TEXAS, *et al.*,

Defendants

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CIVIL ACTION NO. H-05-2708

ORDER OF DISMISSAL

The Court has received a civil rights complaint under 42 U.S.C. § 1983, from state inmate Mark Wayne Carter, who proceeds *pro se*. The plaintiff has not responded to a Court order, entered on August 16, 2005, directing him to submit a copy of his complaint on an approved form within thirty days and to either pay the filing fee or tender a motion for leave to proceed *in forma pauperis* within thirty days. (*See* Docket Entry No. 2). The Court's order specifically advised that the plaintiff's failure to comply as directed would result in dismissal of this action for want of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure without further notice. To date, the plaintiff has neither responded to the Court's order, nor otherwise attempted to comply.


The plaintiff's failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a district court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *see also* *Larson v. Scott*, 157 F.3d 1030 (5th Cir.

1998) (noting that a district court may dismiss an action *sua sponte* for failure to prosecute or to comply with any court order). The plaintiff is advised, however, that upon a proper showing, relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure.

Accordingly, it is **ORDERED** that this action is **DISMISSED** without prejudice for want of prosecution.

The Clerk shall provide a copy of this order to the parties.

SIGNED at Houston, Texas, on **October 4, 2005**.



Nancy F. Atlas
United States District Judge